

**DEPARTMENT OF PLANNING**

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**Douglas J. Schuetz**  
*Acting Commissioner*

**Arlene R. Miller**  
*Deputy Commissioner*

August 15, 2019

Spring Valley Zoning Board of Appeals  
200 N. Main Street  
Spring Valley, NY 10977

**Tax Data:** 57.63-1-17

**Re: GENERAL MUNICIPAL LAW REVIEW:** Section 239 L and M

**Map Date:** 7/19/2019

**Date Review Received:** 7/30/2019

**Item: 17 DIVISION AVENUE (SV-968A)**

A variance application to allow a two-lot subdivision of a corner lot with 0.32 acres in the R-2 zoning district, as well the expansion and conversion of an existing structure to a two-family dwelling on lot 1, and the construction of a new two-family dwelling on lot 2. Variances are requested for lot area, lot width, front yard (John Street), side yard, and section 255-22H (visibility at intersections) for lot 1; and lot area, lot width, side yard, total side yard, and street frontage for lot 2.

The northwestern corner of the intersection of Division Avenue and John Street.

**Reason for Referral:**

Town of Ramapo, South Main Street (NYS Route 45)

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

***\*Disapprove***

1 Both proposed lots do not meet the minimum lot area standard of 8,500 square feet required for single-family residences. Lot 1 provides only 66% of the lot area required for a two-family dwelling, and lot 2 only provides 72%. Both lots will also provide approximately one-half of the lot width required for two-family dwellings. The proposed two-family residences will require substantial yard variances to accommodate oversized residential buildings on undersized parcels. The surrounding neighborhood is characterized by similarly-sized parcels. Granting these bulk variances will set a precedent that may result in nearby property owners seeking the same relief. A doubling of the residential density in this neighborhood of non-conforming parcels will negatively impact its community character and infrastructure capacity. Additional residents will generate more traffic on the local streets, leading to congestion and traffic conflicts. Village officials have previously expressed concern to this department about the increasing traffic congestion along the Route 45 corridor and its impact on emergency services' response time. In direct contradiction to these concerns, the Village's Zoning Board of Appeals overrides our GML recommendations by granting variances to allow increased residential density on undersized lots such as the subject site. Land use and traffic generation are not mutually exclusive concepts. If more intense uses are permitted, additional traffic will be generated causing increased congestion on the roadway

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network, and further hampering the response time of emergency vehicles. While two-family residences are permitted as of right in the R-2 zoning district, they are subject to stricter bulk requirements, including 10,000 square foot lots. The proposed lots are particularly deficient in meeting these more stringent standards. We recommend that the application be denied, and that the property be developed in compliance with the Village's bulk requirements.

2 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. Lots 1 and 2 have 66% and 72% of the minimum lot area and provide 49% and 51% of the minimum lot width, respectively. Both the John Street front yard and the side yard on lot 1 are deficient by 48%. The side and total side yards for lot 2 are only 67% compliant. The street frontage for lot 2 is deficient by 27%. The ability of the existing infrastructure to accommodate increased residential density on undersized parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Village must consider the cumulative and regional impacts of permitting such development. As indicated above, the parcel must remain a single lot to maintain the integrity of the zoning ordinance.

The following comments address our additional concerns about this proposal.

3 The Town of Ramapo is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 270 feet south of the parcel. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Town of Ramapo must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Town of Ramapo must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

4 A review shall be completed by the New York State Department of Transportation and any required permits obtained.

5 The applicant must comply with all comments made by the Rockland County Department of Health in their letter of June 5, 2019.

6 The applicant must comply with all comments made by the Rockland County Sewer District No. 1 in their letter of May 24, 2019.

7 Section 255.22.C of the village zoning regulations exempts open porches and decks from yard and coverage requirements. The village must confirm that the proposed entry along the John Street frontage of lot 1 and rear deck on lot 2 comply with this section and do not include any enclosed spaces.

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8 The site plan indicates that the Division Avenue front yard of lot 1 is 29.4 feet. However, this distance is not taken from the closest point of the structure to the property line. The site plan illustrates a porch and room overhang approximately 5 feet closer to the front property line. Village regulations define a yard as "open and unobstructed." All yard measurements must be taken from the closest point of the structure, including cantilevered living space. The site plan must be amended to indicate the correct yard measurement. In addition, if the front yard is less than the required 25 feet, an additional variance will be necessary. The public hearing notice must be reviewed and, if it contains inaccurate or incomplete information, re-issued.

9 The parking for lot 1 has an accessway of approximately 34 feet in width. This layout is unreasonably large and presents a potential hazard for pedestrians using the sidewalk along John Street. The driveway apron must be reduced in size and should be no greater than 15' in width.

10 A turnaround area must be provided for lot 2 to prevent vehicles from backing into the roadway.

11 The site plan must include all sidewalks and entrances for lot 2.

12 The map notes shall contain district information.

13 The rectangle in the Division Avenue front yard of lot 1 must be identified and labelled on the site plan.

14 The vicinity map indicates the property is located on Division Street. The vicinity map must be corrected to Division Avenue. In addition, the parcel must be centered within the vicinity map.

15 The NYS Department of State has determined that the Village is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Village's administration and enforcement of the State Uniform Fire Prevention and Building Code initially raised in the Executive Deputy Secretary of State's letter of July 15, 2016, and subsequently again in December 18, 2017, the proposed residential building must be held to the requisite minimum standards and comply with all requirements of this code.

16 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

17 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz  
Acting Commissioner of Planning

cc: Mayor Alan Simon, Spring Valley  
New York State Department of State  
New York State Department of Transportation  
Rockland County Department of Health  
Rockland County Sewer District #1  
Town of Ramapo Planning Board

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Anthony R. Celentano P.E.

Rockland County Planning Board Members

*\*NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

*The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.*

*In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.*

*Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.*

*Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.*